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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**Re: MB Docket No. 05-317
Hoak Media of Colorado, LLC
KREG-TV/DT, Glenwood Springs, Colorado, Facility ID No. 70578
TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST**

Dear Ms. Dortch:

Hoak Media of Colorado, LLC ("*Hoak*"), the licensee of satellite television station KREG-TV and permittee of KREG-DT, Glenwood Springs, Colorado, Facility ID No. 70578 ("*KREG*"), by its attorneys, hereby requests a determination that the April 30, 2006 digital signal testing implementation date ("*April Implementation Date*") does not apply to KREG. As further set forth herein, such a determination is in the public interest because, although KREG is physically located just inside the Denver, Colorado Designated Market Area ("*Denver DMA*"), KREG serves primarily rural communities located in and around the Grand Junction-Montrose, Colorado Designated Market Area ("*Grand Junction DMA*"), the 189th ranked Designated Market Area ("*DMA*") in the country.¹

Section 339(a)(2)(D) of the Communications Act ("*Section 339*"), as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("*SHVERA*"), authorizes satellite subscribers to request a digital signal strength test, on or after the April Implementation Date, for any local network station "within the top 100 television markets" that has (A) received its current digital channel as its tentative post-transition channel allotment or (B) been found by

¹ In the alternative, Hoak requests a six-month waiver ("*Testing Waiver*") of the April Implementation Date because the arbitrary assignment of KREG by Nielsen to the Denver DMA is beyond KREG's control and thus constitutes a force majeure event. Accordingly, KREG meets one of the statutory criterion—force majeure—for a Testing Waiver. See 47 U.S.C. § 339(a)(2)(D)(viii)(III) as amended by Section 204 of SHVERA.

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the FCC to have lost interference protection.² Satellite subscribers may not request a digital signal strength test for any other local network station until July 15, 2007 (“**July Implementation Date**”). SHVERA does not expressly define the term “television markets” for purposes of determining when subscribers may request a digital signal strength test. For the reasons set forth below, for purposes of digital signal strength testing, Hoak urges the FCC to treat KREG’s television market as the market primarily served by KREG, namely the Grand Junction DMA.

KREG operates as a satellite of parent television station KREX-TV/DT, Grand Junction, Colorado (“**KREX**”). Parent station KREX is assigned by Nielsen to the Grand Junction DMA, the 189th ranked DMA in the country.³ As a satellite station, KREG merely rebroadcasts the CBS network and other programming originated by its parent station KREX. Nevertheless, KREG is assigned to the Denver, Colorado DMA (“**Denver DMA**”), the 18th ranked DMA in the country, by Nielsen, apparently because its community of license, Glenwood Springs, Colorado, is located just inside the border of the Denver DMA.⁴ However, Glenwood Springs is also located in close proximity to the Grand Junction DMA, approximately 10 miles from the border of this DMA. KREG’s transmitter is even closer to the Grand Junction DMA border, located approximately 9.5 miles southwest of Glenwood Springs, and within a few miles of the border of the Grand Junction DMA.⁵

² See 47 U.S.C. § 339(a)(2)(D) as amended by Section 204 of SHVERA. KREG has selected and received digital television (“**DTV**”) channel 23, the channel assigned to KREG in the DTV table of allotments, as its tentative, post-transition digital operations. See File No. BFMCT-20050209ACD (approved Jun. 23, 2005). However, at this time, KREG’s request for a waiver of the FCC’s July 1, 2005 replication deadline (“**Replication Waiver Request**”) remains pending and KREG-DT has not been found by the FCC to have lost interference protection. See Letter to Ms. Marlene H. Dortch, Secretary, FCC from Mr. Tom W. Davidson, Esq., MB Docket No. 03-15 (filed Jul. 1, 2005). The Replication Waiver Request seeks a waiver of the July 1, 2005 “use-it-or-lose-it” deadline based upon KREG’s unique position as a satellite station that is located just inside the border of a much-higher ranked DMA.

³ KREX is parent to satellite station KREY-TV/DT, Montrose, Colorado, which also is assigned to the Grand Junction DMA.

⁴ See Replication Waiver Request, at Attachment 1 (depicting KREG’s analog Grade B contour in relation to the border of the Denver and Grand Junction DMAs and the population centers of the Denver DMA, such as the city of Denver).

⁵ See Antenna Structure Registration No. 1034540.

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Although KREG is assigned by Nielsen to the Denver DMA, KREG's signal does not reach the cities of Denver, Boulder, Fort Collins, Greeley, or any of the other centrally located, population centers where the majority of the television households in the Denver DMA are located. Indeed, these cities are located more than 100 miles from KREG's community of license and are separated from KREG's transmitter by the Rocky Mountains and several national forests. Moreover, KREG primarily serves small, rural communities located in and around the Grand Junction DMA, one of the smallest DMAs in the country, both in terms of area and population.⁶ In sum, KREG, a satellite station that does not originate any of its own programming, is arbitrarily assigned by Nielsen to the Denver DMA even though its viewership in the Denver DMA is necessarily and severely limited, both by geographical terrain and by the fact that KREG primarily serves communities in and around the Grand Junction DMA. Accordingly, Hoak respectfully requests the FCC to determine that, for purposes of digital strength testing, KREG is not subject to the April Implementation Date because it is not "within the top 100 markets" but rather is within the Grand Junction DMA, the 189th ranked DMA in the country.

Conclusion. For all of the reasons set forth herein, Hoak respectfully requests that the FCC determine that KREG is not "within the top 100 television markets" for purposes of digital signal strength testing and thus not subject to the April Implementation Deadline.

Please direct any questions or inquiries regarding this matter to the undersigned.

Respectfully submitted,

/s/

Tom W. Davidson, Esq.

cc: Nazifa Sawez, Esq.

⁶ Glenwood Springs, KREG's community of license, has a population of only 8,306 persons. KREG's programming is targeted primarily to rural communities along Route 6 and toward Mesa County and the city of Grand Junction, which is the population center of the Grand Junction DMA.